

## RULES BY DISTRICT COURTS

57.I.01: *Attorney Admissions and Discipline.* Rules for the admission of attorneys are set forth in Local Civil Rule 83.I.01 through 83.I.07. The Rules for attorney disciplinary matters are set forth in Local Civil Rule 83.I.08. The Local Civil Rules as to these subject matters are equally applicable to attorneys handling criminal matters in the District of South Carolina with the additional qualification requirements set forth in Local Criminal Rule 57.I.02.

57.I.02: *Additional Requirements to Appear in Criminal Matters.* In addition to the requirements for admission set forth in Local Civil Rule 83.I.03(B), an attorney should be familiar with the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, these Local Criminal Rules, The Bail Reform Act (18 U.S.C. § 3143(b)), the Speedy Trial Act (18 U.S.C. § 3161), and the United States Sentencing Commission Sentencing Guidelines, as well as the relevant substantive areas of law before undertaking representation in a criminal matter.

57.I.03: *Appointment in Criminal Matters.*

- (A) In order to be eligible for appointment to represent criminal defendants in the District of South Carolina, counsel must be approved by the Court after completion of proper application and review by the Criminal Justice Act Committee. Application forms may be obtained from the Clerk of Court or on the District's website ([www.scd.uscourts.gov](http://www.scd.uscourts.gov)). *See* 18 U.S.C. § 3006A (Criminal Justice Act).
- (B) In order to be considered for appointment in capital matters in the District of South Carolina, counsel must file a separate application and be approved by the Court. Application forms may be obtained from the Clerk of Court or on the District's website ([www.scd.uscourts.gov](http://www.scd.uscourts.gov)). Under extraordinary circumstances, the Court may waive requirements of this rule for a specific case. *See* 18 U.S.C. § 3005 (setting forth requirements for capital case appointments).

57.II.01: *Fair Trial Directives: Court Personnel.* All Court supporting personnel, including, but not limited to, marshals, deputy marshals, court clerks and office personnel, probation officers and office personnel, bailiffs, court reporters and employees or subcontractors retained by the Court or the Marshal, and the Judges' office personnel, are prohibited from disclosing to any person, without authorization by the Court, information relating to a pending grand jury proceeding or criminal case that is not part of the public records of the Court. Further, all such personnel are forbidden to divulge any information concerning grand jury proceedings, *in camera* arguments, and hearings held in chambers or otherwise outside the presence of the public.

57.II.02: *Fair Trial Directives: Attorneys.*

- (A) It is the duty of any lawyer or law firm not to release or authorize the release of information or opinions, which a reasonable person would expect to be disseminated by any means of public communication, in connection with pending or imminent criminal litigation with which any lawyer or law firm is associated if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.
- (B) With respect to a grand jury or other pending investigation of any criminal matter, any lawyer participating in or associated with the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication that goes beyond the public record or that is not necessary
  - (1) to inform the public that the investigation is underway,
  - (2) to describe the general scope of the investigation,
  - (3) to obtain assistance in the apprehension of a suspect,
  - (4) to warn the public of any danger, or
  - (5) to aid in the investigation.
- (C) From the time of arrest, issuance of an arrest warrant or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, any lawyer or law firm associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement, which a reasonable person would expect to be disseminated by any means of public communication, relating to that matter and concerning:
  - (1) The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer or law firm may make a factual statement of the accused's name, age, residence, occupation, and family status; if the accused has not been apprehended, any lawyer associated with the prosecution may release any information necessary to aid in apprehension or to warn the public of any danger;

- (2) The existence or contents of any confession, admission, or statement given by the accused or the refusal or failure of the accused to make any statement;
  - (3) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
  - (4) The identity, testimony, or credibility of prospective witnesses, except that any lawyer or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law;
  - (5) The possibility of a plea of guilty to the offense charged or a lesser offense;
  - (6) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.
- (D) Nothing contained in these rules shall prohibit a lawyer from making a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue adversely prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. However, any statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.
- (E) The foregoing shall not be construed to preclude any lawyer or law firm during this period, in the proper discharge of official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the Court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him.
- (F) During a jury trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial or the

parties or issues in the trial which a reasonable person would expect to be disseminated by any means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial, except that any lawyer or law firm may quote from or refer without comment to public records of the Court in the case.

- (G) After the completion of a trial or disposition without trial of any criminal matter, and prior to the imposition of sentence, any lawyer associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.
- (H) Nothing in this Rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any lawyer from replying to public charges of misconduct.

57.II.03: *Fair Trial Directives: Copies of Public Records.* The provisions of Local Civil Rule 83.III.03 (“Copies of Public Records”) shall apply with equal force in criminal proceedings.

57.II.04: *Fair Trial Directives: Conduct of Judicial Proceedings.* The provisions of Local Civil Rule 83.III.04 (allowing special case specific orders) shall apply with equal force in criminal proceedings.

57.II.05: *Fair Trial Directives: Photographing and Reproducing Court Proceedings.* The provisions of Local Civil Rule 83.III.05 (“Photography and Reproducing Court Proceedings”) shall apply with equal force in criminal proceedings.

57.III.01: *[Prior rule deleted (“Opening Statement”) – federal rules/statutes control.]*

57.IV.01: *[Prior rule deleted (“Petition for Attorney's Fees”) – federal rules/statutes control.]*

57.V.01: *Prompt Disposition of Criminal Cases.* The Plan for Achieving Prompt Disposition of Criminal Cases adopted by Judges for this District can be obtained from the Clerk of Court.

57.VI.01: *Requests for Federal Custody.* If custody of a defendant awaiting trial in this District is requested by another United States Court, the Marshal shall not surrender custody of such defendant unless the United States District Judge to whom the defendant's case has been assigned for trial or

other disposition so orders after considering all relevant factors and giving such notice to interested parties as the Court deems appropriate.

57.VI.02: *Requests for State Custody.* If custody of a defendant awaiting trial in this District is requested by any State authority, the Marshal will only surrender custody of such defendant if authorized to do so by the United States District Judge to whom the defendant's case has been assigned for trial or other disposition. In the absence of an emergency request, the authorization shall be requested by the following procedure:

- (A) The requesting State must deliver to the Marshal a specific writ signed by the judge of a court of competent jurisdiction. Such writ shall include an express direction that the defendant will be promptly returned to the Marshal at the State's expense upon conclusion of the matter for which the defendant is sought. A counterpart order signed by a United States District Judge as to whether the State writ will be honored shall be submitted as well.
- (B) The Marshal shall notify both the United States Attorney and the defendant's counsel of the request and allow each a period of three (3) days in which to consent or object. The three-day (3-day) period may be waived.
- (C) The appropriate United States District Judge will determine whether the State's request will be granted, deferred or denied. In so doing, the Court shall consider the Speedy Trial Act, the Interstate Agreement on Detainers, and any other relevant factors. If said Judge determines to honor the State's request, the order shall so indicate.

57.VIII.01: *Filing of Habeas Corpus Actions.* All petitions filed by state, federal, and local prisoners seeking relief under 28 U.S.C. § 2254 or 28 U.S.C. § 2255 shall be filed with the Clerk in compliance with the instructions of the Office of the Clerk of Court and on the appropriate forms or forms substantially similar. The instructions and the appropriate forms can be obtained from the Office of the Clerk of Court without charge.